

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:10CV7-1-MU

PATRICK RICARDO SMITH,

Plaintiff,

v.

DOUG WALKER, et al.,

Defendants.

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**ORDER**

**THIS MATTER** comes before the Court upon Plaintiff's Motion for Medical Records (Doc. No. 14) and Plaintiff's Motion to Compel Discovery (Doc. No. 15), both filed March 10, 2010.

On January 28, 2010, Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) On February 25, 2010, Defendants filed a Motion for Extension of Time to File an Answer (Doc. No. 8). This Court granted such Motion and Defendants' responses are now due April 5, 2010. (Doc. No. 10.) As this Court informed Plaintiff in a previous Order, because Defendants have not yet filed a response to the Complaint, Plaintiff's request for medical records is premature.

In addition, this Court takes the opportunity to remind Plaintiff that pursuant to Rule 37 of the Federal Rules of Civil Procedure, a motion to compel discovery may only be made after a good faith effort to obtain such discovery without court action.

**IT IS THEREFORE ORDERED THAT:**

1. Plaintiff's Motion for Medical Records (Doc. No. 14) is **DENIED** as premature; and

2. Plaintiff's Motion to Compel Discovery (Doc. No. 15) is **DENIED** as premature.

Signed: March 22, 2010

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

